

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Sean & Amanda Kennedy,**  
Appellants,

**v.**

**Black Hawk County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 14-07-0049**  
**Parcel No. 8813-04-303-013**

On December 22, 2014, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellants Sean and Amanda Kennedy were self-represented and requested their appeal be considered without a hearing. Assistant County Attorney David Mason represented the Board of Review. The Appeal Board now, having examined the entire record, and being fully advised, finds:

***Findings of Fact***

Sean and Amanda Kennedy, owners of property located at 816 Lynkaylee Drive, Waterloo, Iowa, protested their assessment to the Black Hawk County Board of Review. The real estate was classified residential on the January 1, 2014, assessment and valued at \$228,370, representing \$38,120 in land value and \$190,250 in improvement value. This was the same as the 2013 assessment.

According to the record, the property is a one-story, frame dwelling built in 1968 with 2206 square feet of living area, a full basement with 750 square feet of average quality finish, a 576 square-foot attached garage, a 160 square-foot open porch, and a 664 square-foot patio. The property is listed in normal condition with good quality construction grade (3+10). The site is 0.396-acres.

The Kennedys protested the assessment to the Board of Review on the grounds that the property was assessed for more than authorized by law and that there has been a downward change in

value since the last reassessment under Iowa Code sections 441.35(2), 441.37(1)(a)(1)(b), and 441.37(1)(a)(2). The Board of Review denied the protest.

The Kennedys then appealed to this Board requesting an assessment of \$210,000. When the assessor has not assessed or reassessed the property or corrected errors appearing in the listing of the property, the only ground upon which a protest can be filed in an interim year is the ground change in value pursuant to Iowa Code section 441.37(1)(a)(2). *See also Transform, Ltd. v. Assessor of Polk County*, 543 N.W.2d 614, 617 (Iowa 1996); *Eagle Food Centers, Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993). Because the Kennedy's 2014 assessment did not change from the 2013 value, we only consider the ground of change in value.

The Kennedys report they purchased the property in February 2014 for \$205,000. The record indicates it was a normal, arm's-length transaction.

The Kennedys submitted an appraisal completed by Clinton Cota of Rally Appraisal, LLC in Cedar Falls, Iowa for mortgage financing with an effective date of February 19, 2014. Cota completed the sales comparison approach to value the subject property. In this approach to value, Cota used six comparable properties, five that sold between July 2013 and January 2014, and one listing/pending sale. Five of the properties are ranch style dwellings and one is a split-foyer. All are less than one mile from the subject property in Waterloo and are similar in age and construction quality. Sale prices ranged from \$196,220 to \$247,500, or \$95.74 to \$113.03 per-square-foot. Cota adjusted the sale prices to account for differences in financing, site, condition, living area, basement size and finish, garage size, and other amenities. Cota gave the greatest weight to Comparable #1, which is located at 815 Lynkaylee Drive based on proximity to the subject property and the least gross adjustment. This property had a sale price of \$210,000 and an adjusted sale price of \$215,915. He arrived at adjusted sale prices of \$201,400 to \$224,793 for the comparable sales and concluded a value of \$216,000 for the subject property.

The Kennedys assert the difference between the \$228,320 assessed value and both the appraised value and purchase price demonstrates a downward change in value. We note the fact that the purchase price and the appraised value are both well below the \$228,320 assessment, may indicate the property is over-assessed; however, this is not sufficient evidence for an interim-year change in value claim.

### ***Conclusions of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, "in arriving at market value, sales prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including . . . foreclosure or other forced sales." *Id.* If sales are not

available to determine market value then “other factors,” such as income and/or cost, may be considered. § 441.21(2).

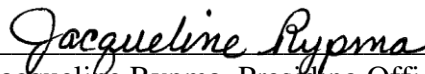
In a non-reassessment or “interim” year, when the value of the property has not changed, a taxpayer may challenge its assessment on the basis that there has been a downward trend in value. *Eagle Food Ctrs., Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993). Iowa Code section 441.37(1)(a)(2) and its reference to section 441.35(2) give rise to the claim of downward trend in value. For a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation. *Equitable Life Ins. Co. of Iowa v. Bd. of Review of the City of Des Moines*, 252 N.W.2d 449, 450 (Iowa 1997). The assessed value cannot be used for this purpose. *Id.* Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451. Based on the foregoing, the Kennedys must establish the subject property’s actual fair market value as of January 1, 2013, and January 1, 2014, to prevail on their claim.

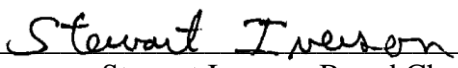
The Kennedys submitted sale information and an appraisal, which we find establishes the subject property’s actual value on January 1, 2014, is less than its assessed value. However, the evidence failed to show the January 1, 2013, value to demonstrate the property has suffered a downward change in value. Under the aforementioned case law, the January 1, 2013, assessment cannot be used to prove the value of the property on that date.

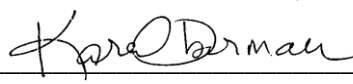
Accordingly, we find a preponderance of the evidence does not prove there has been a change in the value of the subject property since the last reassessment. Depending on the forthcoming 2015 assessment, however, we suggest the Kennedys may want to consider re-filing their over-assessment or market claim with the Board of Review.

THE APPEAL BOARD ORDERS the 2014 assessment of the property located at 816  
Lynkaylee Drive, Waterloo, Iowa, is affirmed.

Dated this 18th day of February, 2015.

  
Jacqueline Rypma, Presiding Officer

  
Stewart Iverson, Board Chair

  
Karen Oberman, Board Member

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